

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement		GRANT NUMBER (FAIN): 99257413 MODIFICATION NUMBER: 0 PROGRAM CODE: BG	DATE OF AWARD 09/11/2014	
			TYPE OF ACTION New		MAILING DATE 09/18/2014
			PAYMENT METHOD: Advance		ACH# 20040
			RECIPIENT TYPE: State		Send Payment Request to: Las Vegas Finance Center
RECIPIENT: NYS Dept of Environmental Conservation 625 Broadway Albany, NY 12233-5010 EIN: 14-6013200			PAYEE: NYS Dept of Environmental Conservation 625 Broadway Albany, NY 12233-5010		
PROJECT MANAGER Peter Freehafer 625 Broadway Albany, NY 12233-5010 E-Mail: pbfreeha@gw.dec.state.ny.us Phone: 518-402-8213		EPA PROJECT OFFICER Martha Isaac 290 Broadway, CWD/DO New York, NY 10007-1866 E-Mail: Isaac.Martha@epamail.epa.gov Phone: 212-637-3761		EPA GRANT SPECIALIST Cynthia Pabon Grants and Audit Mgt Branch, OPM/GAMB E-Mail: pabon.cynthia@epa.gov Phone: 212-637-3405	
PROJECT TITLE AND DESCRIPTION NYSDEC FY 14/15 PPG This agreement provides funding for the operation of the NYSDEC's continuing environmental programs while giving it greater flexibility to address its highest environmental priorities, improve environmental performance, achieve administrative savings and strengthen the partnership between NYSDEC and EPA. This agreement funds statewide programs to protect and improve water quality.					
BUDGET PERIOD 04/01/2014 - 03/31/2015		PROJECT PERIOD 04/01/2014 - 03/31/2019		TOTAL BUDGET PERIOD COST \$20,379,523.00	
				TOTAL PROJECT PERIOD COST \$20,379,523.00	
NOTICE OF AWARD					
Based on your Application dated 08/26/2014 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$11,234,577. EPA agrees to cost-share <u>63.20%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$12,090,577. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.					
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)			AWARD APPROVAL OFFICE		
ORGANIZATION / ADDRESS Grants and Audit Management Branch 290 Broadway, 27th Floor New York, NY 10007-1866			ORGANIZATION / ADDRESS U.S. EPA, Region 2 Clean Water Division 290 Broadway New York, NY 10007-1866		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
Digital signature applied by EPA Award Official Richard Manna - Acting Assistant Regional Administrator for Policy and Management				DATE 09/11/2014	

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FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 11,234,577	\$ 11,234,577
EPA In-Kind Amount	\$	\$ 856,000	\$ 856,000
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$ 7,969,532	\$ 7,969,532
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 20,060,109	\$ 20,060,109

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.605 - Performance Partnership Grants	Appropriations Act of 1996 (PL 104-134) Appropriations Act of 1998 (PL 105-65)	40 CFR PTS 31 & 35 SUBPT A

[illegible]

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$7,837,675
2. Fringe Benefits	\$4,191,589
3. Travel	\$279,000
4. Equipment	\$196,000
5. Supplies	\$465,000
6. Contractual	\$5,798,630
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$18,767,894
10. Indirect Costs: % Base	\$2,885,820
11. Total (Share: Recipient <u>36.80</u> % Federal <u>63.20</u> %.)	\$21,653,714
12. Total Approved Assistance Amount	\$13,684,182
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$12,090,577
15. Total EPA Amount Awarded To Date	\$12,090,577

Administrative Conditions

GENERAL TERMS AND CONDITIONS

The recipient agrees to comply with the current EPA general terms and conditions available at: http://www.epa.gov/ogd/tc_jan_2014.pdf. These terms and conditions are in addition to the assurances and certifications made as part of the award and the terms, conditions or restrictions cited below.

The EPA repository for the general terms and conditions by year can be found at: <http://www.epa.gov/ogd/tc.htm>.

GRANT-SPECIFIC ADMINISTRATIVE CONDITIONS

A. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE participation in procurement under the financial assistance agreements.

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption.

Current Fair Share Objective/Goal

The dollar amount of this assistance agreement or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The **New York State Department of Environmental Conservation** has negotiated the following, applicable MBE/WBE fair share objectives/goals with EPA as follows:

Construction - Minority and Women Business Enterprise (MBE/WBE) Participation Goals:

Combined MBE/WBE statewide	20%
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Non-Construction – Minority and Women Business Enterprise (MBE/WBE) Participation Goals:

(For all other professional and contractual services; supplies and equipment)

Combined MBE/WBE statewide 20%

Negotiating Fair Share Objectives/Goals

In accordance with 40 CFR, Part 33, Subpart D, established goals/objectives remain in effect for three fiscal years unless there are significant changes to the data supporting the fair share objectives. The recipient is required to follow requirements as outlined in 40 CFR Part 33, Subpart D when renegotiating the fair share objectives/goals.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

- (a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
- (e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.
- (f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

MBE/WBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:

- (a) there are any funds budgeted in the contractual, equipment or construction lines of the award;
- (b) \$3,000 or more is included for supplies; or
- (c) there are funds budgeted for subawards or loans in which the expected budget(s)

meet the conditions as described in items (a) and (b).

This award meets one or more of the conditions as described above, therefore, the recipient agrees to complete and submit a “MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements” report (EPA Form 5700-52A) on an annual basis.

When completing the annual report, recipients are instructed to check the box titled “annual” in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the “last report” of the project in section 1B of the form. Annual reports are due by October 30th of each year. Final reports are due within 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on planned procurements. Recipients with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to the Region 2 Grants Mailbox (Region2_GrantApplicationBox@epa.gov) with a courtesy copy to the Grants Specialist and the Region 2 DBE Coordinator, Michele Junker (Junker.Michele@epa.gov). The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program’s Home Page at http://www.epa.gov/osbp/dbe_reporting.htm

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

B. ADVANCE METHOD OF PAYMENT

In accordance with EPA regulations, the recipient is authorized to receive advance payments under this agreement, provided that the recipient takes action to minimize the time elapsing between the transfer of funds from EPA and the disbursement of those funds. The recipient shall request Federal payments by completing the EPA Payment Requests Form (EPA Form 190-F-04-001) and either emailing or faxing it to the Las Vegas Finance Center at LVFC-grants@epa.gov or 702-798-2423. This form can be found at

www.epa.gov/ogd/forms/forms.htm. All email attachments must be sent in pdf format.

C. INTERIM FEDERAL FINANCIAL REPORT AND CLOSE-OUT INSTRUCTIONS

1. Interim Federal Financial Reports (FFRs)

Pursuant to 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit an interim annual Federal Financial Report (SF-425) to EPA no later than 90 calendar days following the anniversary of the start date of the agreement. The FFR must be faxed to the Las Vegas Finance Office at 702-798-2423, emailed to LVFC-grants@epa.gov, or sent to the address below. A courtesy copy of the interim FFR can be submitted to the Grants and Audit Management Branch using one of the following options: email to Region2_GrantApplicationBox@epa.gov, fax to 212-637-3518 or sent to us in the mail at U.S. EPA - Region 2, 290 Broadway, 27th Floor, New York, NY 10007. All email attachments must be sent in pdf format. Documents emailed to us in any other format cannot and will not be accepted.

EPA may take enforcement actions in accordance with 40 CFR 31.43 if the recipient does not comply with this term and condition.

2. Closeout

The Administrative Closeout Phase for this grant will be initiated with the submission of a "final" FFR. At that time, the recipient must submit the following forms/reports to the EPA Region 2 Grants and Audit Management Branch, if applicable:

- Federally Owned Property Report
- An Inventory of all Property Acquired with federal funds
- Contractor's or Grantee's Invention Disclosure Report (EPA Form 3340-3)

D. EXTENSION OF PROJECT/BUDGET PERIOD EXPIRATION DATE

If a no cost time extension is necessary to extend the period of availability of funds (budget period), the recipient must submit a written request, including a justification as to why additional time is needed and an estimated date of completion to the EPA prior to the budget/project period expiration dates. The extension request should be submitted to the EPA, Grants and Audit Management Branch using one of the following options: email to Region2_GrantApplicationBox@epa.gov, fax to 212-637-3518 or sent to us in the mail at U.S. EPA - Region 2, 290 Broadway, 27th Floor, New York, NY 10007. An interim FFR (SF-425) covering all expenditures and obligations to date, must be emailed or faxed to the Las Vegas Finance Office at LVFC-grants@epa.gov or 702-798-2423 or sent to the address below. To expedite processing of your request, please submit a courtesy copy of the interim FFR to the Grants and Audit Management Branch along with your extension request. All email attachments must be sent in pdf format. Documents emailed to us in any other format cannot and will not be accepted.

US EPA, Las Vegas Finance Center
4220 S. Maryland Pkwy, Bld C, Rm 503
Las Vegas, NV 89119

or by email: LVFC-grants@epa.gov or Fax to: 702-798-2423. All email attachments must be sent in pdf format.

E. INDIRECT COSTS

If the recipient has submitted an indirect cost rate proposal to the cognizant Federal agency but does not yet have an approved rate, it must submit a copy to the EPA Regional Office of the final or provisional Indirect Cost Negotiation Agreement that covers the agreement's budget period before it may charge indirect costs against this Assistance Agreement. If the recipient's negotiated rate does not extend through the life of the Assistance Agreement, additional indirect cost rate proposal(s) must be submitted until the full life of the Assistance Agreement is covered by negotiated indirect cost rates. The recipient **will not charge nor claim for reimbursement any indirect costs that are not covered by a negotiated indirect cost rate.**

Programmatic Conditions

A. RECIPIENT PERFORMANCE REPORTING AND EPA REVIEW

For State and Tribal program recipients under 40 C.F.R. Part 35, Subparts A and B, interim and final performance reports submitted by recipients under 40 C.F.R. §§ 35.115 and 35.515 (Evaluation of Performance) must adequately address progress in achieving agreed-upon outputs and outcomes. This includes ensuring that performance reports provide a satisfactory explanation of why outcomes or outputs were not achieved.

New York State Department of Environmental Conservation (NYSDEC) will comply with the requirements of 40 CFR 31.40 as set forth in the Memorandum of Understanding between the NYSDEC/Division of Water (DOW) and EPA regarding the Grants Review and Oversight Group (GROG) report. NYSDEC will provide to EPA Project Officer a semi-annual GROG progress report by October 31, 2014 and a final GROG progress report by April 30, 2015. NYSDEC will provide a final performance report within 90 days of the project period end date. Interim and final performance reports must prominently display the three Essential Elements required for state workplans and reports. They are:

- Essential Element 1 - Strategic Plan Goal
- Essential Element 2 - Strategic Plan Objective
- Essential Element 3 - Workplan Commitments plus time frame

B. QUALITY ASSURANCE

Quality Management Plan (QMP)

The NYSDEC Division of Water Quality Assurance Management Plan was approved for the period April 1, 2014 through March 31, 2019.

C. NONPOINT SOURCE MANAGEMENT PROGRAM

In accordance with the provisions of the Clean Water Act Section 319(h)(8) and the "Nonpoint Source Program and Grant Guidelines for States and Territories" as published in

the *Federal Register*, EPA Region 2 has determined that NYSDEC has made satisfactory progress in meeting the schedule of milestones as delineated in the State's Nonpoint Management Program and the State's annual workplan. This determination was based on the review of the State's Nonpoint Source Reports, data input into the Grants Reporting and Tracking System (GRTS), status reports on annual work plans and additional documents submitted in regards to the Section 319 Nonpoint Source Program. Award of future nonpoint source management funds is contingent upon the availability of funds and continued satisfactory progress in the schedule of established milestones.

D. EQUIPMENT CONDITION

For any items costing \$5,000 or more, a justification as to the need for purchasing the equipment is to be provided to the EPA project officer within 30 days of receipt of award. The EPA project officer must provide written approval for the planned purchase before such costs can properly be charged to the grant.

E. COMPUTER EQUIPMENT PURCHASES

The recipient shall obtain approval by the EPA, Region 2 Information Resources Management Branch, prior to the purchase of computer equipment, computer services, or digital data with a unit price of \$5,000 or more.

F. EPA INVOLVEMENT

EPA will have significant involvement with the recipient in the form of programmatic oversight, and review and comment of all agreement activities and products, as identified under Components #1 through #5 in the workplan.

G. PRE-AWARD COSTS

In accordance with the 40 CFR Section 35.113, Reimbursement for pre-award costs, EPA may reimburse recipients for pre-award costs incurred from the beginning of the funding period established in the grant agreement, **April 1, 2014**, if such costs had been allowed if incurred after the award and the recipients submitted complete grant applications before the beginning of the budget period. Such costs must be identified in the grant application EPA approves. The applicant incurs pre-award costs at its own risk. EPA is under no obligation to reimburse such costs unless they are included in an approved award.

H. COMPETENCY POLICY

In accordance with EPA's Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements, for all awards where the maximum value of the assistance agreement will exceed \$200,000 in federal funding and the project will involve the generation or use of environmental data, the Recipient will be required to demonstrate competency prior to award. Alternatively, where a pre-award demonstration of competency is not practicable, the Recipient must demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The Recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy, including methods by which competency may be

demonstrated, is available online at http://www.epa.gov/fem/lab_comp.htm